



NATIONAL WHEELCHAIR BASKETBALL ASSOCIATION

ROLL WITH U.S.

February 16, 2018

Mr. Jerry Moran

Chairman

Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security

Mr. Richard Blumenthal

Ranking Member

Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security

Sent Via Email: George.Redden@moran.senate.gov

Sent Via Email: Anna.Yu@blumenthal.senate.gov

Dear Senators Moran and Blumenthal;

The responses to the seven questions, and the clarifying question to No. 4 for the U.S. Senate Commerce, Science, and Transportation Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security Committee are below from the National Wheelchair Basketball Association (NWBA). These responses are addressed from the specific questions from the letter dated on February 2, 2018. The NWBA's position is that we will continue to evolve in protecting our athletes with a safe environment as best possible through the NWBA approved SafeSport and Ethics policies and continue to address needs annually to ensure best practices are adopted.

The NWBA has operated since 1948 with much success in providing athletes with disabilities a platform to compete from a grassroots perspective:

- Prep Division (Approximately 30 teams for athletes between the ages of 6-13)
- Junior Division (Approximately 70 teams annually for high school age athletes)
- Intercollegiate for men and women (15 collegiate programs)
- Three Adult Divisions (Approximately 95 teams for athletes 18 and above)
- Women's Division (Approximately 15 teams)
- Men's National Team (Elite athletes who train with the aspiration to compete at the World Championships, Paralympic Games, ParaPan Am Games, and Continental Qualifier)
- Women's National Team (Elite athletes who train with the aspiration to compete at the World Championships, Paralympic Games, ParaPan Am Games, and Continental Qualifier)

The NWBA was created to provide World War II Veterans a rehabilitative physical exercise program to encourage recently injured veterans an opportunity to learn there is life after a disability. As such, this stimulated a growth initiative for wheelchair basketball in the United States that boasts nearly 2,800 members across the country in providing an adaptive sport outlet. Our late founder, Dr. Timothy Nugent, advocated for rights for individuals with disabilities while providing and creating wheelchair basketball opportunities throughout the United States and abroad. Wheelchair basketball was one of the first sports included in the 1960 Paralympics Games.

With this background, the NWBA is presently a High Performance Organization as classified by the U.S. Olympic Committee. We are finalizing the Paralympic Sport Organization application to be approved by the U.S. Olympic Committee in the near future, which is the equivalent to being called a National Governing Body for Olympic Sports. The NWBA must adhere to its bylaws, the USOC Bylaws to be recognized as the High Performance Management Organization, and the Ted Stevens Olympic and Amateur Sports Act.

As a National Governing Body, Paralympic Sport Organization, and/or High Performance Management Organization (NGB), we must abide by the Ted Stevens Olympic and Amateur Sports Act. NGBs are required to participate in binding arbitration where an athlete alleges that the NGB has denied him or her an opportunity to participate in certain competitions, and where a member alleges that the NGB has violated certain provisions of the Sports Act or USOC Bylaws. In these cases, it is the athlete who chooses whether or not to require an NGB to participate in binding arbitration, and the athlete is in no way obligated to participate.

1. What reporting protocols for child and sexual abuse allegations are currently in place to ensure that all reports receive fair, timely, and thorough review by all appropriate parties, including law enforcement?

- The NWBA adopted a SafeSport Policy in July 2016. If a complaint is filed to the NWBA, either through the executive office or leadership, the complaint is reviewed and responded to accordingly. Depending on the nature of the complaint, it is then further investigated by the Ethics Committee who does a complete investigation of the complaint, and then provides a report to the NWBA Board of Directors to render a decision. Dependent upon the severity of the complaint, a decision is rendered without a hearing of the Judicial Committee. If expulsion from the NWBA or NWBA membership is revoked and/or suspended, an NWBA Judicial Committee hearing is conducted. The penalized party has an opportunity to appeal this decision through binding and final arbitration per the Ted Stevens Olympic and Amateur Sports Act (Sports Act).
- If any act be of sexual misconduct and/or sexual offense to a minor, it is instantly reported to local authorities, as well as the U.S. Center of Safe Sport.
- The NWBA is unable to utilize the U.S. Center of Safe Sport for reporting matters, and under the NWBA's jurisdiction to initiate and conduct the investigation of all matters regarding potential SafeSport claims and/or potential violations.
- The NWBA has to abide by the SafeSport Policy that has been adopted by the USOC, per our High Performance Agreement with the U.S. Olympic Committee and U.S. Paralympics. We strongly support and endorse such policies, however all sports in the U.S. Olympic and U.S. Paralympic movements shall have an independent agency, such as the U.S. Center for Safe Sport, provide investigation efforts for all Olympic and Paralympic sports. This regulatory agency for Olympic and Paralympic sports is necessary in the protection of all athletes, however should not only be available to Olympic sports who agreed to participate in its mission.
- For example, all Olympic and Paralympic Sports must abide and follow the codes established by the World Antidoping Agency and U.S. Antidoping Agency policies and suspensions. As such, all Olympic and Paralympic sports shall be protected by the U.S. Center of Safe Sport.

- 2. Are there special accommodations to account for volunteers that are separately employed by non-NGB institutions, like the case of Dr. Nassar who was employed by MSU, in these reporting practices?**
- Absolutely no.
 - All non-athletes within the NWBA are subjected to a criminal and sexual misconduct background check through a third-party independent agency every two years.
 - Lastly, all non-athletes must take the U.S. Center for Safe Sport online training to educate all non-athletes on sexual misconduct, bullying, hazing, etc. and provide them a learning resource to identify if an athlete may be in a jeopardized position.
 - If any of our National Team administrators (coaches, team leaders, physicians, and camp employees/volunteers) are not properly cleared through an independent background check, this person is not in any shape and/or form eligible to be in and/or around any and all National Team activities.
- 3. Has your organization ever utilized an NDA to enforce confidentiality against any athlete, volunteer, or employee in the past? To the extent possible, please provide all details regarding the justification and circumstances surrounding every individual NDA used by your organization.**
- To the best of my knowledge and understanding of existing records, no.
- 4. Has your organization ever utilized additional binding agreements other than NDAs with athletes under your purview? To the extent possible, please provide all details regarding the justification and circumstances surrounding every individual agreement used by your organization.**
- There are no situations where the NWBA has required an athlete to participate in forced binding arbitration.
 - It should be realized, that the NWBA shall oblige by the Sports Act; the USOC Bylaws; and the NWBA Bylaws in regard to any and all grievances, which includes but is not limited to binding arbitration.
- 5. Since the recent lawsuits filed against the USOC, USAG, and MSU for organizational failures to investigate, discipline, or remove Dr. Nassar after complaints of sexual abuse, has you(r) organization taken any additional steps to improve the transparency, efficiency, and effectiveness of its criminal misconduct reporting mechanisms?**
- The NWBA has proposed further definitions for bullying, hazing, and misconduct for inclusion in the current NWBA SafeSport Policies. This recommendation has come from the reports provided from the About SafeSport: 2017 Audit Reports.
 - These definitions will provide further clarification for all NWBA members.
 - The proposed language for the above definitions for the NWBA SafeSport Policy inclusion is taken directly from the U.S. Center for Safe Sport, which shows our further commitment to universal support and adoption of providing a unified approach to protecting our athletes and members at all levels, that is not limited to: try-outs; practices, events; travel to/from events; etc.
- 6. Please identify any circumstance in which USOC did not take any action following a report of criminal behavior from your organization. To the extent possible, please provide all details regarding the justification and circumstances involved in USOC's decision to not act.**

- Towards the end of 2017, the NWBA was informed of a potential situation regarding a potential SafeSport violation. The NWBA reported the information to the USOC and the U.S. Center for Safe Sport, however were informed that the NWBA must handle the investigation of the claim as the NWBA was not covered by the U.S. Center of Safe Sport.
- It has been reported that the reporting party wants to remain confidential and no substantive information has been further disclosed to the NWBA.
- The NWBA is waiting for further information.

7. In 2017, USOC engaged with a third-party consultant to assess compliance with SafeSport policies and procedures within USOC and all of its NGBs and High Performance Management Organizations (HPMO). Please describe the report issued for your organization, including any recommendations necessary for full compliance. If additional recommendations were issued, what actions were taken by your organization? Are there any remaining recommendations that your organization has yet to fully implement?

- Following the audited recommendations from the 2017 SafeSport Audit Report, the NWBA was informed of the two items below (NWBA's position and remedy is included):
 1. NWBA's SafeSport-related documentation and administrative materials does not specifically define bullying, hazing, harassment (including sexual harassment), or emotional misconduct, and does not specifically prohibit hazing, harassment (including sexual harassment), or emotional misconduct.
 - NWBA Remedy: The NWBA has proposed language on the above definitions for inclusion in the NWBA's SafeSport Policies. This proposed language will be presented to the NWBA Board of Directors for adoption on March 7, 2018, which is the first time that the NWBA Board of Directors has convened a meeting since receipt of the SafeSport Audit report.
 2. Athlete Safety Standards – Criminal Background Checks and Education and Training Testing, requiring criminal background checks and education and training is not consistently enforced by the NWBA. The following exceptions were identified during our testing: 1. Six individuals selected for testing (60% of the selected individuals) did not have criminal background checks conducted during the testing period (i.e., May 1, 2016-April 30, 2017); and 2. Six individuals selected for testing (60% of the selected individuals) did not complete education and training requirements during the testing period (i.e., May 1, 2016-April 30, 2017); however evidence was provided that one individual completed the education and training requirements prior to issuing the audit report.
 - NWBA Remedy: At the start of the 2017-18 Membership Year, the NWBA now requires all non-athletes to successfully pass the U.S. Center for Safe Sport Training; and all non-athletes are required to pass a third-party criminal background check.

The USOC recognizes the NWBA as a High Performance Management Organization. The NWBA is the oldest and largest disabled sports organization in the world. The evolution of Paralympic and adaptive sports in the United States is booming, and there is a shift to have a more professional approach in management. As such, it should be understood that transitioning from a volunteer run

organization to a professional organization there are growing pains with some changes needing longer adoption time. The NWBA has moved judiciously in the adoption of SafeSport policy and requirements for the overall protection of all members. This progression has been well received by the NWBA membership.

In closing, the NWBA is a national organization that registers teams and members across the United States for participation in sanctioned competitions annually. As such, we hope all activities within our purview are conducted with high integrity and fair play. As the sanctioning body, we can not be present to ensure these high standards are achieved and/or sustained. We rely upon the support of a strong grassroots volunteer infrastructure in the conduct of activities and should any sexual misconduct occur across our membership, we hope that the tools, resources, SafeSport Training, and policies provide our membership an opportunity to report to the NWBA to be addressed prudently and judiciously.

Should you and/or your staff have any additional questions, please feel free to contact me directly at (719) 266-4082 x 105 or via email at anthonybartkowski@nwba.org.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Anthony Bartkowski", is written over a light blue horizontal line.

Anthony Bartkowski
Executive Director